



Office of the Attorney General

Douglas B. Moylan

Attorney General of Guam

Solicitor's Division

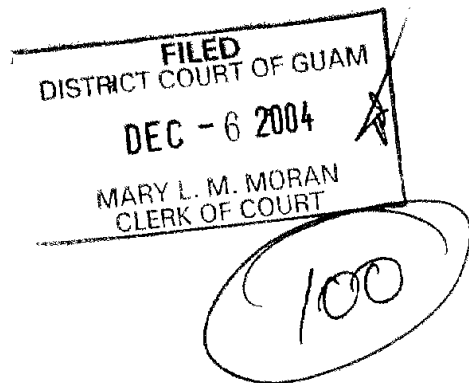
Guam Judicial Center, Suite 2-200E

120 West O'Brien Drive

Hagåtña, Guam 96910 • USA

(671) 475-3324 • (671) 472-2493 (Fax)

www.guamattorneygeneral.com • law@mail.justice.gov.gu



Attorneys for Respondents

**IN THE DISTRICT COURT OF GUAM
HAGÁTÑA, GUAM**

JULIE BABAUTA SANTOS, individually
and on behalf of all those similarly situated,

Petitioner,

vs.

FELIX P. CAMACHO, Governor of Guam;
ART ILAGAN, Director of Department of
Revenue and Taxation; LOURDES M.
PEREZ, Director of Department of
Administration; DOUGLAS B. MOYLAN,
Attorney General of Guam; and
GOVERNMENT OF GUAM,

Respondents.

Civil Case No. 04-00006

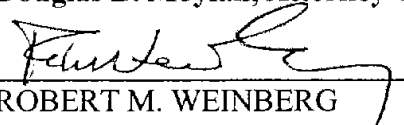
**MOTION OF RESPONDENTS AND
ATTORNEY GENERAL FOR RELIEF
FROM ORDER ISSUED BY THE COURT
ON NOVEMBER 12, 2004**

COMES NOW the Respondents and Douglas B. Moylan, Attorney General of Guam, and
move the Court under Rule 60(b)(1) of the Federal Rules of Civil Procedure ("FRCP") for relief
from the Order issued by the Court on November 12, 2004, on the ground the said Order was
mistakenly or inadvertently issued by the Court in violation of FRCP 11(a) & (b) and Rule 19.1 of
the General Rules of the District Court of Guam ("GR"), and should be vacated and held for naught.

1 This motion is based upon the files and records herein, the declaration of Robert M.
2 Weinberg, and the following Memorandum of Points and Authorities.

3 DATED THIS 6th DAY OF December 2004.

4 OFFICE OF THE ATTORNEY GENERAL
5 Douglas B. Moylan, Attorney General

6 
7 ROBERT M. WEINBERG
8 Assistant Attorney General
9 Attorney for Respondents and
10 Attorney General Douglas B. Moylan

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 **FACTS**

13 • **Appearance of Attorney General Douglas B. Moylan.**

14 This case was commenced on February 12, 2004 by a CLASS ACTION PETITION FOR
15 RECOVERY OF INCOME TAX REFUNDS OR IN THE ALTERNATIVE FOR A WRIT IN
16 THE NATURE OF MANDAMUS filed in this Court. Thereafter, on March 11, 2004, the
17 Attorney General of Guam, Douglas B. Moylan, appeared as attorney of record for the
18 Respondents by filing an OPPOSITION TO CLASS ACTION PETITION FOR RECOVERY
19 OF INCOME TAX REFUNDS OR IN THE ALTERNATIVE FOR WRIT IN THE NATURE
20 OF MANDAMUS. From that time until November 9, 2004, in accordance with FRCP 11(a) &
21 (b) and GR 19.1, all pleadings filed with the Court on behalf of the Respondents, including Felix
22 P. Camacho, Governor of Guam, were signed by an attorney in the Office of the Attorney
23 General as attorney of record, and by no attorneys outside of the Office of the Attorney General.
24
25

- **Attempted Appearance by Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam.**

On November 9, 2004, the following documents were filed in this case by Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam, ostensibly on behalf of Felix P. Camacho, Governor of Guam:

- (1) ENTRY OF APPEARANCE;
- (2) DECLARATION OF DANIEL M. BENJAMIN IN SUPPORT OF THE GOVERNOR OF GUAM'S OBJECTION TO (1) PETITIONER'S MOTION FOR ORDERS APPROVING ADMINISTRATION PLAN AND AMENDED NOTICE; AND (2) THE ATTORNEY GENERAL OF GUAM'S MPA IN RESPONSE TO MOTION FOR ORDERS APPROVING ADMINISTRATION PLAN;
- (3) REQUEST FOR HEARING AND OBJECTION TO (1) PETITIONER'S MOTION FOR ORDERS APPROVING ADMINISTRATION PLAN AND AMENDED NOTICE; AND (2) THE ATTORNEY GENERAL OF GUAM'S MPA IN RESPONSE TO MOTION FOR ORDERS APPROVING ADMINISTRATION PLAN.

The ENTRY OF APPEARANCE, item no. 1 above, is signed by Daniel M. Benjamin, Esq. on behalf of Calvo & Clark, LLP. It states that "The Office of the Governor of Guam and the law offices of Calvo and Clark, LLP hereby enter their appearance through the undersigned counsel on behalf of Defendant Felix P. Camacho, Governor of Guam". At the top left corner of the ENTRY OF APPEARANCE, in the place provided by GR 5.1(c)(1) for identification of counsel, are the names of Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq., of Calvo and Clark, LLP, together with the address, telephone number and facsimile number of Calvo & Clark, LLP. Also at the top left corner of the ENTRY OF APPEARANCE, is the name of

1 Shannon Taitano, Esq., of the Office of the Governor of Guam, together with her address,
2 telephone number and facsimile number. However, the ENTRY OF APPEARANCE does not
3 bear Ms. Taitano's signature.

4 The top left corner of the DECLARATION OF DANIEL M. BENJAMIN etc., item no. 2
5 above, and the REQUEST FOR HEARING AND OBJECTION etc., item no. 3 above, bear the
6 names, addresses, telephone numbers and facsimile numbers of Rodney J. Jacob, Esq. and Daniel
7 M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the
8 Governor of Guam, in the place provided by GR 5.1(c)(1) for identification of counsel.

9 Although Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP,
10 and Shannon Taitano, Esq. of the Office of the Governor of Guam, contend that the Office of the
11 Attorney General has not cooperated with the Office of the Governor of Guam regarding the
12 Earned Income Tax Credit ("EITC"), no documents filed in this case by Rodney J. Jacob, Esq.
13 and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office
14 of the Governor of Guam, bear the signature of Felix P. Camacho, Governor of Guam, so stating.
15 Significantly, none of the documents filed in this case by Rodney J. Jacob, Esq. and Daniel M.
16 Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor
17 of Guam, state that Felix P. Camacho, Governor of Guam, has requested Attorney General
18 Douglas B. Moylan to withdraw as his attorney of record in this case, or state that Felix P.
19 Camacho, Governor of Guam, has notified Attorney General Douglas B. Moylan that he desires
20 Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon
21 Taitano, Esq. of the Office of the Governor of Guam, to represent him in lieu of Attorney
22 General Douglas B. Moylan. Moreover, no motion seeking the withdrawal of Attorney General
23
24
25

1 Douglas B. Moylan as attorney of record for Felix P. Camacho, Governor of Guam, has been
2 filed in this case.

3 • **Court's Order issued on November 12, 2004.**

4 On November 12, 2004, as a result of the filing of the above documents by Rodney J.
5 Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and by Shannon Taitano, Esq.
6 of the Office of the Governor of Guam, the Court entered the following Order in this case:

7 On November 9, 2004, this case came before the Court on a Request for
8 Hearing on Objection to (1) Petitioner's Motion for Orders Approving the
9 Administration Plan and Amended Notice; and (2) the Attorney General of
10 Guam's MPA in Response to Motion for Orders Approving Administration Plan,
11 filed by Defendant, Felix P. Camacho, Governor of Guam. Although there may be
12 questions as to the timing of such a request, the Court believes the Defendant
13 should be heard. Accordingly, the Defendant is given until Wednesday, November
14 24, 2004 to file his Objections. Responses to said Objections will be filed by
15 Wednesday, December 8, 2004. A hearing on the matter is scheduled for Friday,
16 December 17, 2004 at 10:00 a.m.

17 SO ORDERED this 12th day of November, 2004.

18 • **No Withdrawal of Attorney or Substitution of Attorneys Filed.**

19 As of November 9, 2004, when Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of
20 Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam, filed
21 the above documents, no Notice of Withdrawal by the Attorney General of Guam on behalf of
22 the Felix P. Camacho, Governor of Guam, or Substitution of Counsel, substituting the aforesaid
23 attorneys as attorneys of record for Felix P. Camacho, Governor of Guam, had been filed with
24 the Court. Similarly, on November 12, 2004, the date the Court issued its Order, no Notice of
25 Withdrawal or Substitution of Attorneys had been filed, and through the date hereof, no Notice
of Withdrawal or Substitution of Attorneys has been filed.

1 Subsequently, on November 24, 2004, based on the Court's November 12, 2004 Order,
2 Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark LLP, and Shannon
3 Taitano, Esq. of the Office of the Governor of Guam, filed additional documents:

- 4 (i) DECLARATION OF RODNEY J. JACOB IN SUPPORT OF: (1)
5 MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION
6 TO ATTORNEY GENERAL'S BRIEF; AND (2) MEMORANDUM OF
7 POINTS AND AUTHORITIES IN SUPPORT OF OPPOSITION TO
8 PETITIONER'S MOTION FOR APPROVAL OF THE
9 ADMINISTRATION PLAN;
10 (ii) MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION
11 TO ATTORNEY GENERAL'S BRIEF;
12 (iii) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
13 OPPOSITION TO PETITIONER'S MOTION FOR APPROVAL OF THE
14 ADMINISTRATION PLAN.

15 LEGAL DISCUSSION

- 16 • **Attorney General Douglas B. Moylan Remains Attorney of Record of Felix P.
17 Camacho, Governor Guam.**

18 For the reasons discussed below, Attorney General Douglas B. Moylan remains the
19 attorney of record of Felix P. Camacho, Governor of Guam, to the exclusion of Rodney J. Jacob,
20 Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark LLP, and Shannon Taitano, Esq. of the
21 Office of the Governor of Guam, notwithstanding the Court's Order of November 12, 2004.

- 22 • **The Entry of Appearance of Rodney J. Jacob, Esq., Daniel M. Benjamin,
23 Esq. and Calvo & Clark, LLP and Shannon Taitano, Esq. of the Office of the
24 Governor of Guam violates 28 U.S.C. §1654 and GR 19.1.**

25 Section 1654 of Title 28, U.S.C., states that "In all courts of the United States the parties
may plead and conduct their own cases personally or by counsel as, by the rules of such courts,
respectively, are permitted to manage and conduct causes therein". The applicable local rule of

1 the District Court of Guam governing appearances, withdrawals and substitution of attorneys is
2 GR 19.1.

3 Subsection (a) of GR 19.1 provides as follows:

4 Whenever a party has appeared by an attorney, the party may not
5 thereafter appear or act in his or her own behalf in the action, or take any steps
6 therein, unless an order of substitution shall first have been made by the Court,
7 after notice to the attorney of such party, and to all other parties; provided that the
8 Court may in its discretion hear a party in open court, notwithstanding the fact
9 that the party has appeared, or is represented by an attorney.

10 None of the safeguards set forth in subsection (a) of GR 19.1 have been followed here.
11 No substitution has been obtained from Attorney General Douglas B. Moylan or been ordered by
12 the Court, and Felix P. Camacho, Governor of Guam, has not appeared to be heard in open court
13 as to his desires in this matter. The documents filed by Rodney J. Jacob, Esq. and Daniel M.
14 Benjamin, Esq. of Calvo & Clark LLP and Shannon Taitano, Esq. of the Office of the Governor
15 of Guam are not an appearance in open court by Felix P. Camacho, Governor of Guam.

16 Moreover, subsection (b) of GR 19.1 states that:

17 When an attorney of record for any person ceases to act for a party, such
18 party shall appear in person or appoint another attorney either: (1) by a written
19 substitution of attorney signed by the party, the attorney ceasing to act, and the
20 newly appointed attorney; or (2) by a written designation filed in the cause and
21 served upon the attorney ceasing to act, unless said attorney is deceased, in which
22 event the designation of a new attorney shall so state. Until such substitution is
23 approved by the Court, the authority of the attorney of record shall continue for
24 all proper purposes.

25 Clearly, no substitution of attorneys has been filed in this case, whereby Attorney
General Douglas B. Moylan has withdrawn as attorney of record for Felix P. Camacho,
Governor of Guam, in favor of Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo &
Clark LLP and Shannon Taitano, Esq. of the Office of the Governor of Guam.

1 Finally, subsection (c) of GR 19.1 provides:

2 An attorney may withdraw from an action or proceeding only by leave of
3 court for good cause shown, and after serving written notice reasonably in
4 advance to the client and to all other parties who have appeared in the case.
5 Leave to withdraw may be granted subject to the condition that subsequent papers
6 may continue to be served on counsel for forwarding purposes or on the clerk of
7 the Court, as the judge may direct, unless and until the client appears by other
8 counsel or in propria persona, and any notice to the client shall so state and any
9 filed consent of the client shall so acknowledge. The authority and duty of
10 counsel of record shall continue until relieved by order of a judge issued
11 hereunder.

12 Since Attorney General Douglas B. Moylan has not sought to withdraw as attorney of
13 record for Felix P. Camacho, Governor of Guam, he remains attorney of record under GR 19.1.

14 Lest there be any doubt on this issue, the Guam Rules of Professional Responsibility,
15 Rule 1.16(a)(3), state that an attorney shall continue to represent a party for whom he or she has
16 appeared until "the lawyer is discharged".

- 17 • **The Entry of Appearance of Rodney J. Jacob, Esq., Daniel M. Benjamin,
18 Esq. and Calvo & Clark, LLP and Shannon Taitano, Esq. of the Office of the
19 Governor of Guam violates Guam Procurement Law.**

20 The Guam Procurement Law, in 5 G.C.A. §5121(b), provides that no contract for
21 services of legal counsel in the Executive Branch of the government of Guam shall be executed
22 without the approval of the Attorney General of Guam. The Office of the Attorney General of
23 Guam has no record of the Attorney General of Guam having approved any contract for legal
24 services covering the instant case with Rodney J. Jacob, Esq., Daniel M. Benjamin, Esq. or
25 Calvo & Clark, LLP, or with Shannon Taitano, Esq. of the Office of the Governor of Guam.
Accordingly, the aforesaid are not authorized under Guam law to represent Felix P. Camacho,
Governor of Guam, in this case and any funds disbursed by the Office of the Governor of Guam

1 as payment to the aforesaid for services rendered in this case are unlawful and may recovered for
2 the treasury of Guam.

- 3 • **The Entry of Appearance of Rodney J. Jacob, Esq., Daniel M. Benjamin,**
4 **Esq. and Calvo & Clark, LLP and Shannon Taitano, Esq. of the Office of the**
5 **Governor of Guam violates the Responsibilities conferred on Attorney**
6 **General Douglas B. Moylan by the Organic Act of Guam, the Laws of Guam,**
7 **and Common Law.**

8 The Court is referred to pages 5 – 10 of the MEMORANDUM OF POINTS AND
9 AUTHORITIES IN RESPONSE TO PETITIONER’S MOTION FOR ORDERS APPROVING
10 ADMINISTRATION PLAN, ETC., filed herein by the Respondents on November 8, 2004,
11 setting forth the position of the Attorney General of Guam regarding this point.

- 12 • **The Entry of Appearance of Rodney J. Jacob, Esq., Daniel M. Benjamin,**
13 **Esq. and Calvo & Clark, LLP and Shannon Taitano, Esq. of the Office of the**
14 **Governor of Guam violates FRCP 11(a) & (b).**

15 FRCP 11(a) provides that every pleading, written motion, and other paper shall be signed
16 by at least one attorney of record in the attorney’s individual name, and shall state the signer’s
17 address and telephone number, if any. Since Attorney General Douglas B. Moylan is the
18 attorney of record of Felix P. Camacho, Governor of Guam, the above documents signed and
19 filed by Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark LLP and
20 Shannon Taitano, Esq. of the Office of the Governor of Guam, were wrongful.

21 FRCP 11(b) provides that “By presenting to the court (whether by signing, filing,
22 submitting, or later advocating) a pleading, written motion, or other paper, an attorney ... is
23 certifying that to the best of the person’s knowledge, information, and belief, formed after an
24 inquiry reasonable under the circumstances – (1) it is not being presented for any improper
25 purpose” Clearly, Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark

1 LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam, have violated this
2 prescription.

- 3 • **The Office of the Attorney General of Guam has cooperated with the Office**
4 **of the Governor of Guam regarding the EITC.**

5 Although Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP,
6 and Shannon Taitano, Esq. of the Office of the Governor of Guam, have contended that the
7 Office of the Attorney General of Guam has not cooperated with the Office of the Governor of
8 Guam regarding the EITC, their contention is not true.

9 They have failed to inform the Court that Assistant Attorneys General Stephen A. Cohen
10 and Robert W. Weinberg have met with attorneys for the Office of the Governor of Guam on
11 two occasions since September 2004 at the offices of Calvo & Clark, LLP regarding the EITC.
12 The first meeting occurred on September 10, 2004, at which Raymond L. Souza, Jr., Esq. of the
13 Office of the Governor of Guam, and Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of
14 Calvo & Clark were present. The second meeting occurred on October 19, 2004, at which
15 Shannon Taitano, Esq. of the Office of the Governor of Guam, and Rodney J. Jacob, Esq. and
16 Daniel M. Benjamin, Esq. of Calvo & Clark were present. The full range of issues concerning
17 the EITC were discussed at these meetings.
18

19 Moreover, Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP,
20 and Shannon Taitano, Esq. of the Office of the Governor of Guam, have failed to inform the
21 Court that numerous telephone conversations took place regarding the EITC, and that the Office
22 of the Attorney General transmitted to Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of
23 Calvo & Clark, LLP, a draft of a proposed Answer and a draft of a proposed Motion to Dismiss
24 in the other EITC case filed in this Court, *Charmaine R. Torres v. Government of Guam, Felix P.*
25

1 *Camacho, Governor of Guam, et al*, Civil Case No. 04-00038. Rodney J. Jacob, Esq. and Daniel
2 M. Benjamin, Esq. of Calvo & Clark, LLP, and Shannon Taitano, Esq. of the Office of the
3 Governor of Guam have, also, not informed the Court that at their request, the Office of the
4 Attorney General agreed to adopt, and did adopt, the MEMORANDUM OF POINTS AND
5 AUTHORITIES IN SUPPORT OF GOVERNOR OF GUAM'S MOTION TO DISMISS filed in
6 the *Torres* case. *See*: Exhibits "J" & "K" attached to the DECLARATION OF RODNEY J.
7 JACOB etc., filed November 24, 2004.

8
9 Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark, LLP, and
10 Shannon Taitano, Esq. of the Office of the Governor of Guam, have not pointed-out to the Court
11 that at their request, Deputy Attorney General Charles Troutman prepared a Memorandum
12 addressing their concerns regarding the applicability of the Illegal Expenditures Act, 5 G.C.A.
13 §22401, to the various aspects of the Settlement Agreement. *See* Exhibit "C" of the
14 DECLARATION OF RODNEY J. JACOB etc, filed November 24, 2004. Apparently, the
15 Office of the Governor of Guam has chosen to disregard the advice given.

16 • **Motion for Relief from Order under FRCP 60(b).**

17 In its November 12, 2004 Order, the Court granted Rodney J. Jacob, Esq. and Daniel M.
18 Benjamin, Esq. of Calvo & Clark LLP, and Shannon Taitano, Esq. of the Office of the Governor
19 of Guam, allegedly on behalf of Felix P. Camacho, Governor of Guam, an opportunity to address
20 the merits of (1) Petitioner's Motion for Orders Approving the Administration Plan and
21 Amended Notice; and (2) the Attorney General of Guam's MPA in Response to Motion for
22 Orders Approving Administration Plan. They have availed themselves of this opportunity in the
23 documents filed herein on November 24, 2004.
24
25

1 For the reasons discussed above, the Court should not have entered its November 12,
2 2004 Order permitting Rodney J. Jacob, Esq. and Daniel M. Benjamin, Esq. of Calvo & Clark
3 LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam, to address the merits of
4 these matters, as Attorney General Douglas B. Moylan is and remains the attorney of record of
5 Felix P. Camacho, Governor of Guam, to the exclusion of Rodney J. Jacob, Esq. and Daniel M.
6 Benjamin, Esq. of Calvo & Clark LLP, and Shannon Taitano, Esq. of the Office of the Governor
7 of Guam.

8
9 The Settlement Agreement being disputed was signed by the Acting Governor of Guam,
10 the Acting Director of the Department of Administration, and the Director of the Department of
11 Revenue and Taxation on behalf of the Executive Branch of the Government of Guam, and it is
12 binding on the Executive Branch. Rodney J. Jacob, Esq., Daniel M. Benjamin, Esq. and Calvo
13 & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam, have not
14 contended that the Acting Governor of Guam, the Acting Director of the Department of
15 Administration, or the Director of the Department of Revenue and Taxation lacked the power or
16 the right to sign the Settlement Agreement, or that they acted contrary to the instructions of Felix
17 P. Camacho, Governor of Guam. In a press release on November 26, 2004, the Governor's
18 spokesperson, Sean Gumataotao, stated that Felix P. Camacho, Governor of Guam, supported the
19 Settlement Agreement when it was signed and only later withdrew his support.

20
21 Under the Organic Act of Guam, the laws of Guam and common law, Attorney General
22 Douglas B. Moylan has the power, the right and the duty to determine litigation policy in this
23 and other cases. A key aspect of litigation policy is that settlements once made, such as the
24 Settlement Agreement here, can not be undone at a later date because certain individuals find
25

1 them to be inconvenient. The Court should not countenance the attempt made here to undermine
2 the Settlement Agreement by supplanting Attorney General Douglas B. Moylan's power to carry
3 forward under the Settlement Agreement.

4 The Settlement Agreement provides for a fairness hearing to be conducted by the Court,
5 at which the EITC claimants can express any objections to the Settlement Agreement. The
6 Petitioner's motion now before the Court seeks approval of a date for the fairness hearing, as
7 well as dates for EITC claimants to opt-out of the Settlement Agreement and to file objections to
8 the Settlement Agreement. Thus, the Settlement Agreement has built into it a process for
9 addressing the objections raised by Rodney J. Jacob, Esq., Daniel M. Benjamin, Esq. and Calvo
10 & Clark, LLP, and Shannon Taitano, Esq. of the Office of the Governor of Guam. Instead,
11 Rodney J. Jacob, Esq., Daniel M. Benjamin, Esq. and Calvo & Clark, LLP, and Shannon
12 Taitano, Esq. of the Office of the Governor of Guam, seek to short circuit this process through
13 the so-called objections they have filed, and to deny EITC claimants their right to be heard,
14 although no motion to set aside the Settlement Agreement has been filed and no motion under
15 FRCP 60(b) to vacate the Court's Order of June 17, 2004 preliminarily approving the Settlement
16 Agreement has been filed.

17
18 Accordingly, the Court's November 12, 2004 Order should be vacated and held for
19 naught pursuant to FRCP 60(b)(1).

20 21 CONCLUSION

22 No motion has been filed in this case seeking the withdrawal of Attorney General
23 Douglas B. Moylan as attorney of record for Felix P. Camacho, Governor of Guam, and no
24 motions have been filed in this case seeking to set aside the Settlement Agreement or to vacate
25

1 the Court's Order preliminarily approving the Settlement Agreement. The ENTRY OF
2 APPEARANCE filed by Rodney J. Jacob, Esq., Daniel M. Benjamin, Esq. and Calvo & Clark,
3 LLP, and the purported ENTRY OF APPEARANCE filed by Shannon Taitano, Esq. of the
4 Office of the Governor, and the subsequent documents filed by them in this case, violate the
5 provisions of law discussed above. Accordingly, the motion of the Respondents and Attorney
6 General Douglas B. Moylan for relief from the November 12, 2004 Order under FRCP 60(b)(1)
7 should be granted.

8 DATED THIS 6th DAY OF December 2004.

10 OFFICE OF THE ATTORNEY GENERAL
11 Douglas B. Moylan, Attorney General

12 

13 ROBERT M. WEINBERG
14 Assistant Attorney General
15 Attorney for Respondents and
16 Attorney General Douglas B. Moylan

17
18
19
20
21
22
23 F:\AG_DATA\Solicitor\Cohen\ Santos Motion for Relief from Order
24
25